

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 ANAHITA S. CRAWFORD, State Bar No. 209545
Deputy Attorney General
4 1300 I Street, Suite 125
P.O. Box 944255
5 Sacramento, CA 94244-2550
Telephone: (916) 322-8311
6 Facsimile: (916) 327-8643

7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2007-267

13 **KELLY ANNE O'QUINN**
Post Office Box 1134
French Camp, California 95231

A C C U S A T I O N

14 Registered Nurse License No. 693997

15 Respondent.

16
17 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

18 **PARTIES**

19 1. Complainant brings this Accusation solely in her official capacity as the
20 Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer
21 Affairs.

22 **License History**

23 2. On or about December 13, 2006, the Board issued Registered Nurse
24 License Number 693997 ("license") to Kelly Anne O'Quinn ("Respondent"). The license will
25 expire on May 31, 2010, unless renewed.

26 **JURISDICTION**

27 3. Section 2750 of the Business and Professions Code ("Code") provides, in
28 pertinent part; that the Board may discipline any licensee, including a licensee holding a

1 temporary or an inactive license, for any reason provided in Article 3 (commencing with Code
2 section 2750) of the Nursing Practice Act.

3 4. Code section 2764 provides, in pertinent part, that the expiration of a
4 license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
5 against the licensee or to render a decision imposing discipline on the license.

6 5. Code section 118, subdivision (b), provides that the suspension,
7 expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to
8 proceed with a disciplinary action during the period within which the license may be renewed,
9 restored, reissued or reinstated.

10 STATUTORY PROVISIONS

11 6. Code section 2761 states, in pertinent part:

12 The board may take disciplinary action against a certified or
13 licensed nurse or deny an application for a certificate or license for any of
the following:

14 (a) Unprofessional conduct, . . .

15 (f) Conviction of a felony or of any offense substantially
16 related to the qualifications, functions, and duties of a registered nurse, in
17 which event the record of the conviction shall be conclusive evidence
thereof.

18 7. Code section 2762 states, in pertinent part:

19 In addition to other acts constituting unprofessional conduct within
20 the meaning of this chapter [the Nursing Practice Act], it is unprofessional
conduct for a person licensed under this chapter to do any of the following:

21 (a) Obtain or possess in violation of law, or prescribe, or
22 except as directed by a licensed physician and surgeon, dentist, or
23 podiatrist administer to himself or herself, or furnish or administer to
another, any controlled substance as defined in Division 10 (commencing
24 with Section 11000) of the Health and Safety Code or any dangerous drug
or dangerous device as defined in Section 4022.

25 (b) Use any controlled substance as defined in Division 10
26 (commencing with Section 11000) of the Health and Safety Code, or any
dangerous drug or dangerous device as defined in Section 4022, or
27 alcoholic beverages, to an extent or in a manner dangerous or injurious to
28 himself or herself, any other person, or the public or the extent that such
use impairs his or her ability to conduct with safety to the public the
practice authorized by his or her license.

1 (c) Be convicted of a criminal offense involving the
2 prescription, consumption, or self-administration of any of the substances
3 described in subdivisions (a) and (b) of this section, or the possession of,
4 or falsification of a record pertaining to, the substances described in
5 subdivision (a) of this section, in which event the record of the
6 conviction is conclusive evidence thereof.

7 COST RECOVERY

8 8. Code section 125.3 provides, in pertinent part, that the Board may request
9 the administrative law judge to direct a licensee found to have committed a violation or
10 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
11 and enforcement of the case.

12 FIRST CAUSE FOR DISCIPLINE

13 (Criminal Conviction)

14 9. Respondent is subject to disciplinary action under Code section 2761,
15 subdivision (f), in that on or about February 27, 2007, in the Superior Court of California,
16 County of Fresno, in the case entitled, *People of the State of California v. Kelly Anne O'Quinn*
17 (Super Ct. Fresno County, 2006, Case No. M06301323MA), Respondent was convicted on her
18 plea of nolo contendere of violating Vehicle Code section 23152, subdivision (b) (Driving Under
19 the Influence of Alcohol with a B.A. of 08% or Higher Blood Alcohol Level), a misdemeanor.
20 The circumstances of the crime are that on January 15, 2006, Respondent did unlawfully, while
21 having a .08 percent and more, by weight, of alcohol in her blood (.15%), drive a vehicle. Such
22 crime is substantially related to the functions, duties, and qualifications of a registered nurse.

23 SECOND CAUSE FOR DISCIPLINE

24 (Criminal Conviction Involving the Consumption of Alcohol)

25 10. Respondent is subject to disciplinary action under Code section 2761,
26 subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762,
27 subdivision (c), in that Respondent was convicted of a crime involving the consumption of an
28 alcoholic beverage, as set forth in paragraph 9, above.

///

///

1 PRAYER


2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 693997 issued
5 to Kelly Anne O'Quinn;

6 2. Ordering Kelly Anne O'Quinn to pay the Board the reasonable costs of the
7 investigation and enforcement of this case, pursuant to Code section 125.3; and

8 3. Taking such other and further action as deemed necessary and proper.
9

10 DATED: 4/22/09

11
12 
13 RUTH ANN TERRY, M.P.H., R.N.
14 Executive Officer
15 Board of Registered Nursing
16 Department of Consumer Affairs
17 State of California
18 Complainant
19
20
21
22
23
24
25
26